

### **REMARKS**

Applicants would first like to thank the Examiner for acknowledging the allowability of claims 29-59 and 76-120. While Applicants do not believe that the items set forth in this RCE submission affect the patentability of the instant claims, Applicants do request that the Examiner carefully consider these items, which include not only the documents listed in the attached Information Disclosure Statement (IDS) but also the items discussed below.

1) On August 5, 2009, Applicants filed an IDS containing ten references. On August 18, 2009, the Office issued a Notice of Allowability that contained an initialed copy of an SB/08 form that was submitted with an IDS filed February 23, 2009, but it did not contain an initialed copy of the SB/08 form that was submitted with the IDS filed on August 5, 2009. Applicants respectfully request that the next communication from the Office include an initialed copy of the SB/08 form submitted with the IDS filed August 5, 2009.

2) Applicants would like to draw the Examiner's attention to PCT Application Publication No. WO00/29619, which was published May 25, 2000, and which is the first reference listed on the SB/08 form submitted herewith.

3) Applicants would like to again make the Examiner aware of co-owned U.S. Patent Application No. 10/767,249 (the '249 Application). Applicants previously made the Examiner aware of the concurrent prosecution of the '249 Application in their response filed October 29, 2007. Since that time, the following communications have been received from the Office in connection with the prosecution of that case:

- a) a final Office Action was received May 16, 2008;
- b) an Advisory Action was received October 8, 2008; and
- c) a Notice of Allowance was received December 2, 2008.

The '249 Application issued March 31, 2009 as U.S. Patent No. 7,510,841.

**Application No.:** 10/767,476  
**Filing Date:** January 28, 2004

Applicants note that in addition to communications received from the Office in connection with the '249 Application, the Examiner may wish to consider the entire prosecution history of that case. Applicants believe that it is not necessary to submit to the Office the documents that make up the prosecution history of '249 Application since the Examiner has ready access to these documents in an organized format. However, if such a submission is deemed necessary, Applicants will provide the documents upon the Examiner's request.

4) Applicants would also like to make the Examiner aware that co-owned U.S. Patent No. 7,510,841, which was just discussed in item 3 above, is now the subject of litigation. In particular, the patent owner filed suit in the United States District Court for the Western District of Wisconsin on May 5, 2009 (Case No. 3:09-cv-00277-bcc). Documents related to that litigation are listed on the enclosed SB/08 form and copies are submitted herewith. Applicants respectfully request that the Examiner consider each of those documents.

Applicants do not intend to create an unnecessary burden on the Examiner by making the submissions set forth herein. Applicants greatly appreciate the Examiner's time and attention to this matter.

#### **CONCLUSION**

Applicants believe that all outstanding issues in this case have been resolved and that the present claims are in condition for allowance. Nevertheless, if any undeveloped issues remain or if any issues require clarification, the Examiner is invited to contact the undersigned at the telephone number provided below in order to expedite the resolution of such issues.


Application No.: 10/767,476  
Filing Date: January 28, 2004

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

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